

AMENDED IN ASSEMBLY JANUARY 6, 2004

AMENDED IN ASSEMBLY JANUARY 5, 2004

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1073

Introduced by Assembly Members Dutton and Parra

February 20, 2003

An act to add Section 17136.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1073, as amended, Dutton. Personal income tax: exemption: military death gratuity.

The Personal Income Tax Law imposes a tax on individual taxpayers measured by the amount of the taxpayer's taxable income for the taxable year, but excludes certain items of income from the computation of tax.

~~This bill would, for taxable years beginning on or after January 1, 2004, exclude~~

The Personal Income Tax Law generally conforms with the provisions of the federal income tax law, except as otherwise specified. Existing federal law excludes from the computation of taxable income the entire amount of death gratuity income received by the living survivor of a deceased member, former member, or person entering the service of, the Armed Forces of the United States, from the computation

~~of the personal income tax~~ military personnel for the taxable year in which the death gratuity is received.

This bill would, in conformance with the Military Tax Relief Act of 2003, exclude the entire amount of the death gratuity income received by living survivors of military personnel who lost their lives on or after September 11, 2001. This bill would provide that the retroactive application of the provisions of this bill serves a public service, and is necessary to provide equitable treatment to California survivors of military personnel who lost their lives in defense of their country.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17136.5 is added to the Revenue and
2 Taxation Code, to read:

3 ~~17136.5.—(a) For taxable years beginning on or after January~~
4 ~~1, 2004, gross income does not include the death gratuity received~~
5 ~~by the living survivor of a deceased member, former member, or~~
6 ~~person entering the service of, the Armed Forces of the United~~
7 ~~States.~~

8 (b) For purposes of this section:

9 (1) “Death gratuity” means the entire amount of the lump-sum
10 payment made pursuant to Section 1478 of Title 10 of the United
11 States Code.

12 (2) “Living survivor” means those persons described in
13 Section 1477 of Title 10 of the United States Code.

14 (3) “Deceased member, former member, or person entering the
15 service of, the Armed Forces of the United States” means those
16 persons described in Sections 1475 and 1476 of Title 10 of the
17 United States Code.

18 SEC. 2.—

19 *17136.5. The provisions of Section 134(b)(3) of the Internal*
20 *Revenue Code, relating to military benefits, as amended by Section*
21 *102 of the Military Tax Relief Act of 2003 (Public Law 108-121),*
22 *shall apply with respect to deaths occurring on or after September*
23 *11, 2001.*

24 SEC. 2. *The Legislature finds and declares that the*
25 *application of this act to deaths that occurred on or after*

1 *September 11, 2001, serves a public purpose and is necessary to*
2 *provide equitable treatment to California survivors of military*
3 *personnel who lost their lives in defense of their country.*

4 *SEC. 3.* This act provides for a tax levy within the meaning
5 of Article IV of the Constitution and shall go into immediate
6 effect.

